

# EXHIBIT B

**ORIGINAL FILED**

JUL 05 2013

WAYNE F. JAGOW  
NIAGARA COUNTY CLERK

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NIAGARA

JAMES T. JOHNSON d/b/a  
STOCKTON ROOFING & SIDING  
Plaintiff,

vs.

ATLANTIC CASUALTY INSURANCE COMPANY  
Defendant.

SUMMONS WITH NOTICE



150515  
07/05/2013 01:06:02 PM  
Receipt # 2013164607  
1 Pages

Clerk: DK

Wayne F. Jagow, Niagara County Clerk

To the above named Defendant:

**YOU ARE HEREBY SUMMONED** to serve a notice of appearance, on the Plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear, judgment may be taken against you by default for the relief demanded in the complaint.

The basis of venue is the residence of the Plaintiff.

Dated:

CHRISTOPHER A. PRIVATEER, ESQ.  
Attorney for Plaintiff  
272 East Avenue  
Lockport, New York 14094  
(716) 439-8098

**ORIGINAL FILED**

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NIAGARA

JUL 05 2013

WAYNE F. JAGOW  
NIAGARA COUNTY CLERK

JAMES T. JOHNSON d/b/a  
STOCKTON ROOFING & SIDING

Plaintiff,

**COMPLAINT**

vs.

ATLANTIC CASUALTY INSURANCE COMPANY

Defendant.

VERIFIED COMPLAINT



150515  
07/05/2013 01:06:02 PM  
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5 Pages

Wayne F. Jagow, Niagara County Clerk

Clerk: DK

1. At all times hereinafter mentioned, the Plaintiff, JAMES T. JOHNSON d/b/a STOCKTON ROOFING & SIDING, was and is a resident of the County of Niagara and State of New York.
2. Upon information and belief, at all times hereinafter mentioned, the Defendant, ATLANTIC CASUALTY INSURANCE COMPANY (hereinafter "ATLANTIC CASUALTY") was and is a corporation duly organized and existing under and by virtue of the laws of the State of North Carolina and offers insurance coverage to individuals and businesses in New York State through The Keller Group, Inc., at their offices for business at 2706 Pine Avenue, Niagara Falls, NY.
3. The Plaintiff, JAMES T. JOHNSON d/b/a STOCKTON ROOFING & SIDING, is also a Third Party Defendant in a companion action in Niagara County, State Supreme Court, entitled MARC P. HERRING, Plaintiff v. A. BEST, INC., Defendant, Index No. 145727 - A. BEST, INC., Third-Party Plaintiff v. JAMES JOHNSON, d/b/a STOCKTON ROOFING & SIDING, Third-Party Defendant, Index No. 145727/3.
4. The underlying action, entitled MARC P. HERRING, Plaintiff v. A. BEST, INC.,

Defendant, Index No. 145727, (Hereinafter referred to as: "HERRING v. BEST"), arises from a claim that on August 10, 2011, Plaintiff, HERRING, was "employed by Stockton Roofing & Siding, who was subcontracted by Defendant, A. BEST, INC." to perform certain work at a residence in North Tonawanda, Niagara County, NY, and suffered injuries during the course of that employment. Defendant, BEST, thereafter brought a Third Party action, entitled A. BEST, INC., Third-Party Plaintiff v. JAMES JOHNSON, d/b/a STOCKTON ROOFING & SIDING, Third-Party Defendant, Index No. 145727/3 (Hereinafter referred to as: "BEST v. STOCKTON") claiming that BEST had a contract with STOCKTON to "provide contribution and indemnification for and against any claims arising out of or related to the claims asserted in the primary [HERRING v. BEST] action."

5. Prior to August 10, 2011, the ATLANTIC CASUALTY, issued a policy of liability insurance (#L068011809) to Third Party Defendant, STOCKTON, which was in effect for the period from March 6, 2011 through March 6, 2012 and required that they provide insurance coverage up to the amount of \$1,000,000.00 for "personal injury" claims against STOCKTON.

6. Upon receipt of the Third Party Complaint, STOCKTON forwarded the pleadings to ATLANTIC CASUALTY.

7. On or about November 16, 2012, ATLANTIC CASUALTY, by its agent, American Claims Services, Inc., denied coverage for the claim. (A copy of the letter is attached hereto as Exhibit " ").

8. Upon information and belief, this denial of coverage is wrongful and in violation of its insurance contract and of the law of the State of New York and is harmful to the Third Party Defendant, STOCKTON.

10. That the Plaintiff herein, STOCKTON, has no adequate remedy of law and needs a

**INDIVIDUAL VERIFICATION**

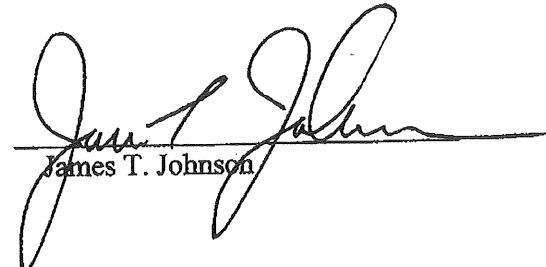
State of New York )

ss:

County of Niagara )

James T. Johnson, d/b/a Stockton Roofing & Siding, being duly sworn, deposes and states:

That I am the Plaintiff in the action herein; I have read the contents of the annexed Summons and Complaint and know the contents thereof and the same are true to my knowledge, except as to those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true.



James T. Johnson

Sworn to before me this

29<sup>th</sup> day of May, 2013



Notary Public

CHRISTOPHER A. PRIVATEER  
Notary Public, State of New York

Qualified in Erie County

My Commission Expires July 15, 2013

**CLIENT CERTIFICATION**

State of New York )

ss:

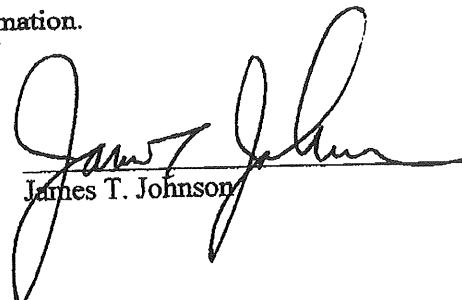
County of Niagara )

I, JAMES T. JOHNSON, HEREBY CERTIFY, under penalty of perjury, that I have carefully read and reviewed the annexed Summons and Complaint, and that all information contained in those documents is true and accurate in all respects to the best of my knowledge and understanding.

I, FURTHER CERTIFY, under penalty of perjury, that neither my Attorney, nor anyone acting on my attorney's behalf, was the source of any of the information contained in the annexed document; that I have provided all the information contained in the annexed document to my attorney; and that I understand that my attorney, in executing the Attorney Certification, is relying entirely upon the information provided by me and upon my certification that all such information is true and accurate.

I, FURTHER CERTIFY, that the annexed documents include all information which I have provided to my attorney which is relevant to such document and that my attorney has not deleted, omitted, or excluded any such information.

Dated:



James T. Johnson



*Elaine F. Marshall*  
Secretary

North Carolina

# DEPARTMENT OF THE SECRETARY OF STATE

PO Box 29622 Raleigh, NC 27626-0622 (919)807-2000

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## Corporation Names

Name	Name Type
NC ATLANTIC CASUALTY INSURANCE COMPANY	LEGAL

## Insurance Company Information

SOSID:	0007067
Status:	Current-Active
Effective Date:	10/14/1983
Citizenship:	DOMESTIC
State of Inc.:	NC
Duration:	PERPETUAL

## Registered Agent

Agent Name:	TILLMAN, MARIANNA S.
Office Address:	400 COMMERCE COURT GOLDSBORO NC 27533
Mailing Address:	400 COMMERCE COURT GOLDSBORO NC 27533

## Principal Office

Office Address:	400 COMMERCE COURT GOLDSBORO NC 27533
Mailing Address:	400 COMMERCE COURT GOLDSBORO NC 27533

## Officers

Title:	CHIEF EXECUTIVE OFFICER
Name:	ROBERT W. STRICKLAND
Business Address:	400 COMMERCE COURT GOLDSBORO NC 27533
 Title:	CHIEF FINANCIAL OFFICER
Name:	STEPHEN M. WESTFIELD
Business Address:	400 COMMERCE COURT GOLDSBORO NC 27533

<b>Title:</b>	<b>CONTROLLER</b>
<b>Name:</b>	JENNIFER M. CUNNINGHAM
<b>Business Address:</b>	400 COMMERCE COURT GOLDSBORO NC 27533
<b>Title:</b>	<b>PRESIDENT</b>
<b>Name:</b>	WILLIAM G. REYNOLDS
<b>Business Address:</b>	400 COMMERCE COURT GOLDSBORO NC 27533
<b>Title:</b>	<b>SECRETARY</b>
<b>Name:</b>	MARIANNA S. TILLMAN
<b>Business Address:</b>	400 COMMERCE COURT GOLDSBORO NC 27533

**Stock**

Class	Shares	No Par Value	Par Value
COMMON	5000000	YES	N/A
COMMON	400000		1

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